

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Zhao et al
Title : Multifunction Keyboard for a Mobile . . .
Application No. : 10/004,001
Filing Date : 11/1/01
Confirmation No. : 7436
Examiner : Tuan Pham
Group Art Unit : 2618
Attorney Docket : 555255012288

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

This Appeal Brief is in response to the final Office Action mailed January 5, 2009 and pursuant to a Notice of Appeal filed March 5, 2009.

Any fee due for this Appeal Brief should be withdrawn from the Jones Day Deposit Account No. 501432, reference 555255012288.

I. REAL PARTIES IN INTEREST

The real party in interest is Research in Motion Limited as evidenced by an Assignment recorded at Reel/Frame 012354/0396.

II. RELATED APPEALS AND INTERFERENCES

There is no related appeal or interference to this application.

III. STATUS OF CLAIMS

Claims 1-41, 43 and 51-55 are cancelled. Claims 42, 44-50 and 56-58 are pending and finally rejected.

IV. STATUS OF AMENDMENTS

No amendment was filed after the final rejection being appealed.

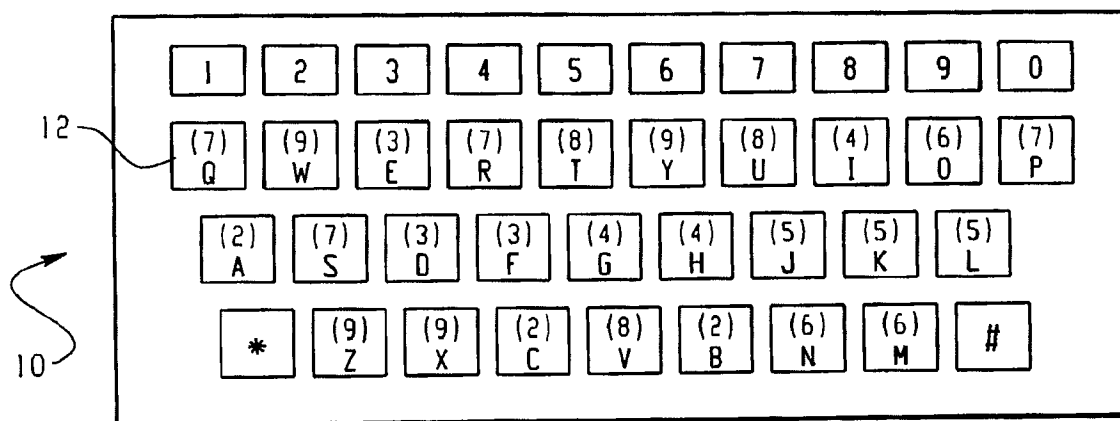
V. SUMMARY OF CLAIMED SUBJECT MATTER

A. INDEPENDENT CLAIM 42

Independent claim 42 is directed to a communication device having a keyboard. This is exemplified in the application by mobile communication device 40 in Fig. 4.

Features of the keyboard are exemplified in the application by Fig. 1 (below). Claim 42 recites a keyboard 10 having at least twenty six keys 12. Each key 12 is labeled with a different letter of the alphabet and with a number. The number is 2-9 respectively for keys labeled with A-C, D-F, G-I, J-L, M-O, P-S, T-V and W-Z. For example, as shown in Fig. 1, keys labeled A, B and C are also labeled with the number “2”; keys labeled D, E and F are also labeled with the number “3”.

APPLICATION FIG. 1



Each key generates an output signal.¹ A processor 56 converts the output signal into a character code and the output signal is converted into a telephony tone signal.² Software applications are stored by the communication device and executed by the processor 56.³ A keyboard

¹ specification, [0033]

² specification, [0029] and Fig. 6

³ specification, [0040], “service store 63”

mode control software module automatically controls whether the keyboard output signals from the keys are converted into character codes or telephony tone signals based on which of the plurality of software applications is active.⁴

B. INDEPENDENT CLAIM 47

Features of independent claim 47 are exemplified in the application by Fig. 1 (above). Claim 47 is directed to a communication device, exemplified in the application by mobile communication device 40 in Fig. 4.

The device includes a keyboard 10 having at least twenty six keys 12. Each of the twenty six keys 12 is labeled with a different letter of the alphabet and assigned a number.

The device further includes a means 56 for generating, for each key pressed by a user, a telephony tone signal corresponding to the number assigned to the pressed key.⁵

C. INDEPENDENT CLAIM 56

Features of independent claim 56 are exemplified in the application by Fig. 1 (above). Claim 56 is directed to a communication device, exemplified in the application by mobile communication device 40 in Fig. 4.

The device includes a keyboard 10 having at least twenty six keys 12. Each of the twenty six keys 12 is labeled with a different letter of the alphabet and with a number. For example, in Fig. 1 (above), one key is labeled with the letter “A” and the number “2”; another key is labeled with the letter D and the letter “3”.

⁴ specification [0029]

⁵ specification [0029] and Fig. 6

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A. Whether claims 42 and 44-46 are unpatentable under 35 USC 103(a) as being obvious over Nokia User's Manual 900i (hereinafter "Nokia") in view of Woods (US Patent No. 6,965,372). Of these claims, arguments for patentability are presented for claim 42. The rejections of claims 44-46 stand or fall with the rejection of claim 42, from which they depend.

B. Whether claims 47-50 are unpatentable under 35 USC 103(a) as being obvious over Nokia in view of Woods. Of these claims, arguments for patentability are presented for claim 47. The rejections of claims 48-50 stand or fall with the rejection of claim 47, from which they depend.

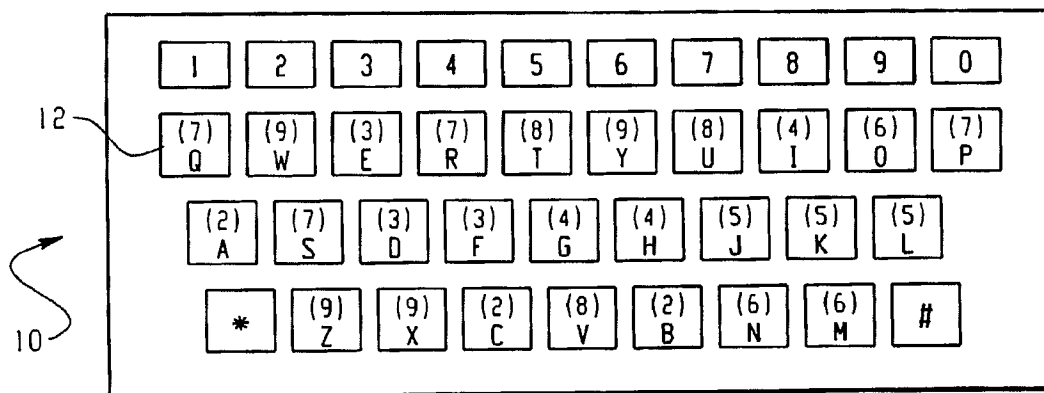
C. Whether claims 56-58 are unpatentable under 35 USC 103(a) as being obvious over Nokia in view of Woods. Of these claims, arguments for patentability are presented for claim 56. The rejections of claims 57-58 stand or fall with the rejection of claim 56, from which they depend.

VII. ARGUMENT

A. INDEPENDENT CLAIM 42

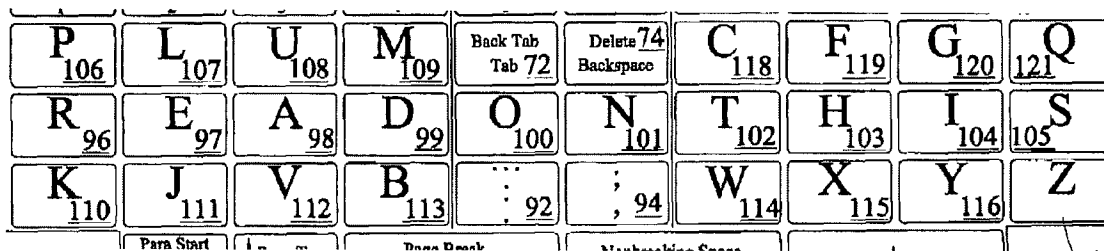
Claim 42 recites a keyboard having 26 letter keys that are each labeled with a number. The number is 2-9 respectively for keys A-C, D-F, G-I, J-L, M-O, P-S, T-V and W-Z. This is exemplified in the application by Fig. 1 (below), and explained more fully above on page 3:

APPLICATION FIG. 1



Claim 42 is rejected over Nokia in view of Woods. The Examiner acknowledges that Nokia fails to teach 26 letter keys labeled with a number, but contends this is taught by Woods Fig. 2 (reproduced in-part below) showing letter keys with numbers 96-121.

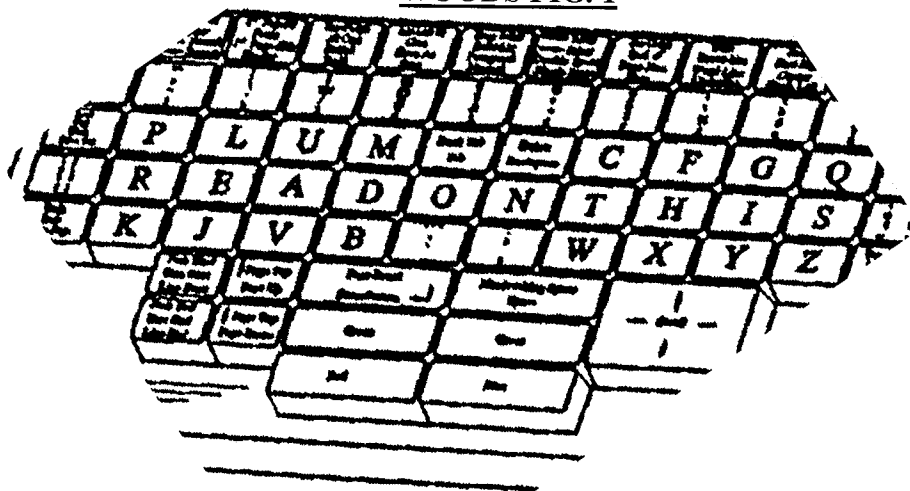
WOODS FIG. 2



The Examiner's contention is incorrect, because the numbers 96-121 in Woods' Fig. 2 are merely patent reference numerals that appear on the patent drawing for the purpose of referencing the keys in the specification. Woods does not suggest these numbers be labeled on an actual

keyboard as claimed. This is indicated by the numbers 96-121 not appearing in the perspective view of Woods' keyboard (Fig. 1 reproduced in-part below).

WOODS FIG. 1



This is further indicated by the numbers 96-121 in Woods' Fig. 2 being **underlined**, in accordance with the rule in 37 CFR 1.84(q) that: "Such a reference character must be **underlined** to make it clear that a lead line has not been left out by mistake."

This is further indicated by the following section of Woods' specification highlighting "96-121" in bold in accordance with the standard format for patent reference numerals.

Arranged throughout Row **68**, Row **78**, and Row **84** are the twenty-six letter keys of the English language. When a letter key **96-121** is pressed alone, a lower case letter character is inserted. When a letter key **96-121** is pressed
30 along with a shift key **10** or **12**, a capital letter character is
(Woods, col. 10, lines 26-30)

This is yet further indicated by Woods' specification not suggesting anywhere that numbers 96-121 be printed on an actual letter key nor providing any reason why they would be.

Therefore, it is clear that while Woods shows patent reference numerals labeled on a drawing of letter keys, he does not suggest the limitation of numbers labeled on actual letter keys as claimed.

Even according to the Examiner's mistaken interpretation of Woods' numbers, Woods still would not teach the claim limitation it was cited for. That is because the claim 42 limitation at issue

limits the numbers to the range **2-9**, whereas Woods' numbers are in the range **96-121**.

Additionally, claim 42 specifies "the number being 2-9 respectively for keys labeled with A-C, D-F, G-I, J-L, M-O, P-S, T-V and W-Z" (such as the same number "2" labeled on three different letter keys A, B and C), which Woods does not disclose.

Therefore, the rejection is clearly in error on several grounds and should be withdrawn.

B. INDEPENDENT CLAIM 47

In claim 47, each of the keyboard's 26 letter keys is assigned a number, as exemplified in the application by Fig. 1 (above).

Claim 47, like 42, is rejected over Nokia in view of Woods. The Examiner acknowledges that Nokia fails to teach the claimed 26 letter keys each assigned a number, but contends this is taught by Woods' Fig. 2 (above). As explained above (regarding claim 42), the Examiner's contention is incorrect, because the numbers in Woods' Fig. 2 are merely patent reference numerals that are assigned to a drawing of keys and not to actual keys as claimed. Therefore, claim 47 is patentable over the cited art.

C. INDEPENDENT CLAIM 56

Claim 56, like claim 42, recites a keyboard with 26 letter keys that are each labeled with a number, the number being 2-9 respectively for keys A-C, D-F, G-I, J-L, M-O, P-S, T-V and W-Z. As with claim 42, the rejection of claim 56 is based on the Examiner's mistaken contention that this is taught by Woods. However, as explained above regarding claim 42, Woods does not teach letter keys labeled with numbers as claimed, much less numbers in the range 2-9 as claimed, and much less with the **same** number labeled on **several different** letter keys. Therefore, the rejection of claim 56 is in error on several grounds and should be withdrawn.

D. DEPENDENT CLAIMS 44-46, 48-50 AND 57-58

The remaining claims all depend from base claims that are explained above to be patentable over the prior art. The limitations that the dependent claims add to the base claims distinguish them further from the prior art.

VIII. CLAIMS APPENDIX

A Claims Appendix setting forth the claims involved in this appeal is attached.

IX. EVIDENCE APPENDIX

No evidence is being submitted pursuant to 37 C.F.R. §§ 1.130, 1.131, or 1.132, nor is there any other evidence entered by the Examiner or relied upon by the Applicant. An Evidence Appendix indicating "None" is attached.

X. RELATED PROCEEDINGS APPENDIX

There are no proceedings relating to this application. A Related Proceedings Appendix indicating "None" is attached.

Respectfully submitted,

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5/1/09

CLAIMS APPENDIX

1-41 (canceled)

42 (previously presented): A communication device comprising:

a keyboard having at least twenty six keys that are each labeled with a different letter of the alphabet and with a number and configured to generate an output signal, the number being 2-9 respectively for keys labeled with A-C, D-F, G-I, J-L, M-O, P-S, T-V and W-Z;

a processor for converting the output signal into a character code;

means for converting the output signal into a telephony tone signal;

software applications stored by the communication device and executed by the processor;

and

a keyboard mode control software module that automatically controls whether the keyboard output signals from the keys are converted into character codes or telephony tone signals based on which of the plurality of software applications is active.

43 (canceled)

44 (previously presented): The device of claim 42 wherein the keys are arranged in a QWERTY configuration.

45 (previously presented): The device of claim 42 further including a display configured to display the character codes.

46 (previously presented): The device of claim 42 further including a mode key with which a user can switch conversion of the output signals from telephony signals to character codes.

47 (previously presented): A communication device comprising:

a keyboard having at least twenty six keys that are each labeled with a different letter of the alphabet and each assigned a number; and

means for generating, for each key pressed by a user, a telephony tone signal corresponding to the number assigned to the pressed key.

48 (previously presented): The device of claim 47 wherein the numbers 2-9 are respectively assigned to keys A-C, D-F, G-I, J-L, M-O, P-S, T-V and W-Z.

49 (previously presented): The device of claim 47 wherein the keys are arranged in a QWERTY configuration.

50 (previously presented): The device of claim 47 wherein each key is labeled with its assigned number.

51-55 (canceled)

56 (previously presented): A communication device comprising:

a keyboard having at least twenty six keys that are each labeled with a different letter of the alphabet and with a number, the number being 2-9 respectively for keys labeled with A-C, D-F, G-I, J-L, M-O, P-S, T-V and W-Z.

57 (previously presented): The device of claim 56 wherein the keys are arranged in a QWERTY configuration.

58 (previously presented): The device of claim 56 further including means for generating, for each key pressed by a user, a telephony tone signal for the number corresponding to the pressed key.

EVIDENCE APPENDIX

NONE

RELATED PROCEEDINGS APPENDIX

NONE